

## REMARKS

This Response is submitted in reply to the Final Office Action dated April 8, 2009. Claims 6-10 are pending in this application and Claims 6-10 are rejected. In the amendment, Claims 6, 8, and 9 are amended and Claims 11-14 are newly added. The amendment does not add new matter. In view of the amendment and/or for the reasons set forth below, Applicants respectfully submit the rejections are improper and should be withdrawn.

Applicants have filed a Request for Continued Examination with this Response. Accordingly, Applicants request that the Examiner provide a notice of allowance or an upcoming Office Action which will "... identify any claims which he or she judges, as presently recited, to be allowable and/or ... suggest any way in which he or she considers that rejected claims may be amended to make them allowable" in accordance with §707.07(d) of the MPEP.

### Rejections under 35 U.S.C. 102 and 35 U.S.C. 103

In the Office Action, Claims 6, 8, and 9 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicant Admitted Prior Art ("APA"). Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over APA. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over APA, in view of JP 2003111268 to Watarai et al. ("Watarai"). In view of the amendment, Applicants respectfully traverse the rejections for at least the reasons set forth below.

#### *i. Independent Claim 6*

Claim 6 has been amended to recite, in part, "wherein the sensing means switches on the current flowing into the heating resistor wherein a voltage across the heating resistor is less than a voltage across a total number of batteries in the battery back." The amendment is fully supported by the specification. For example, see paragraph [0030] of the published specification.

Applicants respectfully submit that APA fails to disclose or suggest "a voltage across the heating resistor is *less than* a voltage across a total number of batteries in the battery back." (Emphasis added). Instead, APA teaches the voltage across the heating resistor is *equal* to the voltage across all the batteries in the battery back. See published specification, paragraphs [0007]-[0010] and Figs. 6 and 7. For example, APA teaches that if the battery pack contains 10

serially connected batteries, each battery having a maximum voltage of 4V, and thus creating a total voltage across the battery back of 40V, the voltage across the heating resistor will also be 40V. See published specification, paragraphs [0007]-[0008].

*ii. Dependent Claim 8*

Claim 8 has been amended to recite, in part, “a voltage across a predetermined number of the batteries in the battery pack is applied to the heating resistor, wherein the predetermined number of the batteries in the battery pack is less than the total number of batteries in the battery pack.” The amendment is fully supported by the specification. For example, see paragraph [0030] of the published specification.

The amendment clarifies that the predetermined number of the batteries is less than the total number of batteries in the battery pack and that the voltage across this predetermined number of batteries is applied to the heating resistor. Conversely, APA discloses a voltage across the total number of batteries in the battery pack is applied to the heating resistor.

*iii. Independent Claim 9*

Claim 9 is amended to recited similar limitations included in amended Claims 6 and 8. Applicants respectfully submit that at least for the same reasons as discussed above, APA fails to anticipate or render obvious the combination of elements as recited in Claim 9.

Applicants submit that Watarai, even if properly combinable, fails to cure the deficiencies of APA. Accordingly, Applicants respectfully request the anticipation and obviousness rejections with respect to independent Claims 6 and 9, and the claims that depend thereon, be reconsidered and the rejections withdrawn.

**New Claims**

Applicants further note that Claims 11-14 are newly added. The newly added claims are fully supported by the specification. For example, see paragraphs [0016] and [0028]-[0030] and Fig. 1 of the specification.

Applicants respectfully submit that the subject matter as defined in the newly added claims is patentable over the cited art of record for at least the same reasons as discussed above, and for the additional patentable elements recited therein.

**Conclusion**

For at least the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance and earnestly solicit reconsideration of the same.

The commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing.

Respectfully submitted,

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